

**FILED**

FEB 18 2015

PATRICK KEANEY  
Clerk, U.S. District Court  
By Deputy Clerk

1 Thomas F. West and  
2 Diana M. West  
3 PO Box 228  
4 Vian, OK 74962  
5 Phone: 918-773-3005  
6 Plaintiffs in Proper Person

7 **IN THE UNITED STATES DISTRICT COURT FOR THE**  
8 **EASTERN DISTRICT OF OKLAHOMA**

9 THOMAS F. WEST and  
10 DIANA M. WEST  
11 Plaintiffs

12 vs.

13 BANK OF AMERICA, N.A.  
14 Defendant

15 AND ALL RELATED CLAIMS

Case No.: 6:15-cv-00058-KEW

AMENDED COMPLAINT  
Pursuant to Fed. R. Civ. Proc. 15 (a) 1(b)

DEMAND FOR JURY TRIAL  
Pursuant to Rule 38, Fed.R.Civ.Proc.  
As to All Issues Triable

16 COME NOW, PLAINTIFFS, Thomas F. West and Diana M. West, In Proper Person,  
17 and hereby file this Amended Complaint pursuant to Fed. R. Civ. Proc. 15 (a) 1(b) against Bank  
18 of America, N.A., Defendant for conduct engaged in that is in violation of the State of Oklahoma  
19 Consumer Protection Act, all Federal Consumer Protection Acts and Statutes, and the State of  
20 Oklahoma Damage statutes.

21 **FACTS**

22 Defendant BOA filed a Notice of Removal from State Court pursuant to U.S. Civil  
23 Statute 28 U.S.C. §§ 1446 and 1332 on February 11, 2015 removing Plaintiffs Complaint and  
24 suit filed on January 7, 2015 to this Federal Court.

25 Plaintiffs filing of this Amended Complaint is timely pursuant to Fed. R. Civ. Proc. 12  
26 (b).

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## FACTUAL ALLEGATIONS

At all times material hereto, Defendant BOA did transact business in Clark County, Nevada and in Sequoyah County, Oklahoma, as a "debt collector" as the term is defined by 15 U.S.C. §1692a(6) and/or Nevada and Oklahoma statutes. Defendant sought to collect an alleged debt from the Plaintiffs WEST that arose from a transaction incurred for personal, family or household purposes and is therefore a "consumer debt."

At all times material, Defendant BOA alleges to be the servicer of a mortgage loan which is the subject of the unlawful collection activity at issue herein.

As described herein, Defendant BOA employed business practices resulting in intentional harassment and abuse of the Plaintiffs and engaged in patterns of conduct including harassment, falsifying documents, harassing phone calls, misstatement of pertinent facts of ownership, and threats by and through its agents and representatives in an effort to collect a mortgage loan debt from Plaintiffs WEST.

Defendant BOA has engaged in conduct in violation of the State of Oklahoma Consumer Protection Act and State of Oklahoma Damage statutes, as well as all Federal Consumer Protection Acts and Statutes.

## COMPLAINT

Plaintiffs WEST restate and amends the Complaint filed in District Court of Sequoyah County, State of Oklahoma as follows:

In July, 1996, Plaintiffs WEST purchased property in Las Vegas, Nevada as their residence.

For over 14 years, Plaintiffs WEST never failed to make a payment.

In 2010, in light of seeing evidence that Defendant BOA had committed many fraudulent acts in handling of mortgage loans, Plaintiffs WEST sent Defendant BOA a written request to provide proof that they had the right to the mortgage payments under our contract executed in 2003 with Quicken Loans, Inc. Defendant BOA refused to provide absolute proof to validate their claim to the Deed of Trust which is secured by the Promissory Note on the mortgage.

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1 Plaintiffs WEST acquired evidence that most mortgage loans from the mid 1990s were  
2 sold through a MERS pool without proper record keeping as to the specific mortgages going to  
3 which pool. Plaintiffs WEST then sent Defendant BOA a request for proof of ownership of the  
4 original note and offered 100% payoff for said note. Defendant BOA once again refused which  
5 is in violation of common law banking practices. Plaintiffs WEST then refused under Defendant  
6 BOA's demand for payments any further payments on this mortgage until such time as  
7 Defendant BOA would provide us with proof that they had the right to said mortgage payments.

8 Over the past 4 1/2 years Defendant BOA has maliciously and fraudulently through the  
9 US Mail stated that BOA was the "noteholder"; that Fannie Mae was the "noteholder"; that  
10 Merrill Lynch was the "noteholder". and more recently, by US Mail, Plaintiffs WEST have been  
11 sent documents from BOA stating again that BOA is the "noteholder" (common law states that  
12 the noteholder is the possessor thereof.)

13 Plaintiffs WEST possess a letter from the Attorney of the title company that handled the  
14 transaction in 2003 stating the note was sold through a MERS pool and that the whereabouts of  
15 said note is unknown.

16 Plaintiffs WEST since 2011 have been constantly and continuously harassed by phone  
17 and by mail threatening foreclosure. Defendant BOA has used subsidiary companies to also  
18 harass with phone calls and by US Mail making numerous statements to coerce us into paying  
19 them.

20 Through many written requests, Plaintiffs WEST have continuously asked Defendant  
21 BOA to prove their rights to said mortgage payments. Defendant BOA continues to refuse citing  
22 the requests are beyond what they are required to provide and that they simply do not have to.

#### 23 RESTATEMENT OF CAUSES OF ACTION

24 Plaintiffs WEST are suing under the Oklahoma Consumer Protection Act, including but  
25 not limited to Oklahoma Statute Title 15-751, Oklahoma Statute Title 15-752 (2), (5), (12) (13)  
26 (14) (16b) (16e), (17), Title 15-753 (2) (3) (5) (19) (28) and Title 15-755.1 (2) (3c) for actions of  
27 Defendant BOA.

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1 Plaintiffs WEST also are suing under the Oklahoma Damages Law, including but not  
2 limited to Oklahoma Statute Title 23 §23.3, §23.4 and §23.5.

3 On October 24, 2014, Plaintiffs WEST received a letter from Defendant BOA stating that  
4 they "may" enter the "vacant" property. Plaintiffs have evidence that BOA broke into the house  
5 prior to October 14, 2014, on October 18, 2014 and again on October 23, 2014.

6 County recorder's office records do not show any filings of Default, Foreclosure or any  
7 other documents supporting the most recent actions by Defendant BOA.

8 **UPDATED REQUEST FOR RELIEF**

9 Wherefore, Plaintiffs WEST respectfully demand judgment against Defendant for  
10 statutory damages, actual damages, punitive damages, an injunction from similar conduct in the  
11 future, attorneys fees, costs, interest and such other relief this Court deems just and proper.

12 In so much as Defendant BOA has maliciously and fraudulently threatened Plaintiffs  
13 WEST on numerous occasions for the past 4 1/2 years and the fact that on at least two (2)  
14 occasions Defendant BOA associates illegally broke into our home we ask the Court for real  
15 damages of 1.1 Million dollars. Whereas, a Federal Judge in Florida adjudged Defendant  
16 BOA's wrongful calls at \$15,000 per call.

17 In accordance with Oklahoma's laws as to the financial well being of the Defendant, in  
18 so much as Defendant BOA's last year's financial statement published an after tax net income of  
19 11.4 billion dollars. We the Plaintiffs are asking the Court for punitive damages in the amount  
20 of 1/1000ths of their published income which is the amount of \$11.4 million. Due to the willful  
21 changing of Cause of Action by Defendant through its Notice of Removal filed with this court,  
22 Plaintiffs are asking for an additional \$11.4 million in punitive damages for a total of \$22.8  
23 million.

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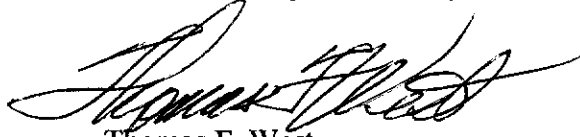
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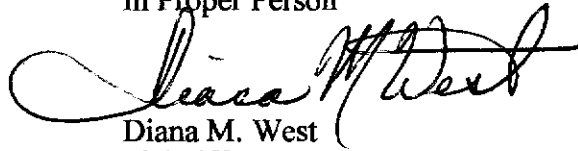
DEMAND FOR JURY TRIAL

Plaintiffs WEST reassert their demand for a trial by Jury of all issues.

Dated this 18th day of February, 2015.



Thomas F. West  
Plaintiff  
In Proper Person



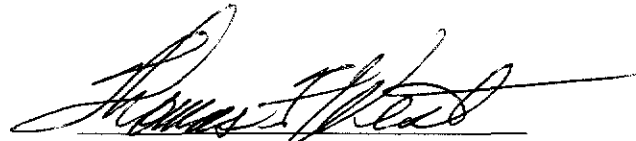
Diana M. West  
Plaintiff  
In Proper Person

CERTIFICATE OF MAILING

I hereby certify that a copy of the Amended Complaint filed on the 18th day of February, 2015, in the above-entitled case was mailed by me on February 18, 2015 by depositing copies thereof in a sealed envelope, first-class postage prepaid, in the United States mail, to

Sean C. Wagner  
Bradley Arant Boult Cummings, LLP  
One Federal Place  
1819 Fifth Avenue North  
Birmingham, AL 35203-2119

Dated: February 18, 2015



Thomas F. West  
Plaintiff  
In Proper Person

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Phone: 918-773-3005